REMARKS

Claims 1, 3, 5 to 42 are pending. Claims 2 and 4 have been canceled. Claim 1 is amended.

§ 112 Rejections

Claims 1, 3, 5-42 stand rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claim 1 has been amended to more particularly recite the faces of the composite and of the backing substrate. It is submitted that the examiners concerns have been fully addressed by these amendments.

§ 103 Rejections

Claims 1, 3, 5-42 stands rejected under 35 USC § 103(a) as being unpatentable over Kacher et al. (US 2003/0049407) in view of Schortmann et al. (US 4,537819) and Schlegel, Jr. et al. (US 3,638,270).

The premise of the rejection, as applicants understand it, is that Schortmann et al. would suggest embedding the hook strips of Kacher et al. within one of the substrates 14 listed by Kacher et al. These substrates are discussed in paragraphs 42 – 50 of Kacher et al. and are described as being selected from wovens, nonwovens or films. In order to make this combination one of skill in the art would need to first be directed to select one of the more open nonwovens in this long list of potential substrates and then somehow find a way to embed hook strips into this type of substrate. It is unclear how this would be done or why. If a nonwoven is used as the backing in Kacher et al, it would be available for its potential cleaning abilities and freely available for use. This would appear to be one possible reason why Kacher et al has discrete strips, zones or the like of protrusions with intervening zones free of protrusions (paragraphs 118-125). As such there is simply no reason to try and imbed the hook strips of

Kacher et al in a nonwoven as per Schortmann et al as the properties Schortmann et al is looking to obtain are already present in the structures suggested by Kacher et al. Namely when a nonwoven backing is selected in Kacher et al the intervening zones of the nonwoven backing free of protrusions are freely available for trapping dust and the like generated by the protrusions .

If one were to try and imbed the hook strips of Kacher et al as per Schortmann et al the only method suggested in these references is that of Schortmann et al, namely hydroentagling. It seems clear to the undersigned that this would never work with the distrete hook strips and the like of Kacher et al, which are like big fibers. The violent chaotic process of hydroentagling would simple move and twist the disconnected discrete hook strips, capable of being hydroentagled, of Kacher et al within the hydroentagled fibous web so that the strips would twist and turn. It very large sheets of discrete hook strips were used that would not twist it is not seen how these could be embedded within a nonwoven by hydroentagling. It is unclear how one could arrive at the invention structure with this combination, as the references would lead one of skill in the art to combine them, which, as stated above, the references do not appear to fairly suggest that they should be combined as proposed. Applicants avoid the issues that would be inherent in the discrete protrusion containing strips of Kacher et al in that the claim protrusion containing backing element "is formed of substantially continuous first and second sets of intersecting strand elements extending in at least two directions" , which provides dimensional stability.

Attached is a quote from a recent USPTO Board of Appeals cases Ex parte: Neelakantan Sundaresan (Appeal No. 2006-1342; Application No. 09/488,471).

"To reach a proper conclusion under 35 U.S.C. § 103, the decision maker must step backward in time and into the shoes worn by [a person having ordinary skill in the art] when the invention was unknown and just before it was made. In light of *all* the evidence, the decision maker must then determine whether the claimed invention as a whole would have been obvious at *that* time to *that* person. The answer to that question partakes more of the nature of law than of fact, for it is an ultimate conclusion based on a foundation formed of all the probative facts.

The test for obviousness is based on the claimed invention as a whole and not upon mere combination of prior art references. Creative Pioneer Products Corp. v. K Mart Corp., 1987 WL

54482 (S.D. Tex), 5 USPQ2d 1841 (DC S.Texas 1987).

The presence or absence of a motivation to combine references in an obviousness determination is a pure question of fact. In re Gartside, 203 FJd 1305, 1316,53 USPQ2d 1769, 1776 (Fed. Cir. 2000). The question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination. In re Beattie, 974 F.2d 1309, 1311-12,24 USPQ2d 1040,1042 (Fed. Cir. 1992). Evidence of a suggestion, teaching or motivation to combine may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved. In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617."

The Federal Circuit is clear that all changes over the art must be considered no matter if they may seem at their face "minor" or "simple", it is still required that "the prior art provides (a) teaching or suggestion to one of ordinary skill in the art to make the changes" In re Chu 66 F.3d 292, 298-99 (Fed. Cir. 1995)

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested.

Allowance of claims 1, 3, 5 to 42, as amended, at an early date is solicited.

Respectfully submitted,

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